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**From:** Mancusi-Ungaro, Philip [Mancusi-Ungaro.Philip@epa.gov]  
**Sent:** 6/21/2017 1:17:26 PM  
**To:** Powell, Duncan [Powell.Duncan@epa.gov]  
**CC:** Hurd, Kathy [Hurd.Kathy@epa.gov]; McGill, Thomas [McGill.Thomas@epa.gov]; Able, Tony [Able.Tony@epa.gov]  
**Subject:** Re: Florida's Assumption of CWA Section 404 Dredge and Fill Program

And Kathy is right,

**Ex. 5 Deliberative Process (DP)**

Sent from my iPhone

On Jun 21, 2017, at 9:09 AM, Powell, Duncan <Powell.Duncan@epa.gov> wrote:

Kathy,

This is an internal meeting for the Wetlands and Streams Regulatory Section with invites to our attorneys. It is an introductory meeting with some brand new staff. I was inviting the Branch Chief to bring in your name as a resource we will be depending on as the process moves forward along with the ppt you provided Tom McGill back in May.

Thank you for your comments.

Respectively,

*Duncan Powell*

Life Scientist, Wetland Regulatory Section  
Endangered Species Act Coordinator  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street SW, Atlanta, GA 30303

404/562-9258 work

Ex. 6 Personal Privacy (PP) cell

404/562-9343 fax

All streams flow into the sea, yet the sea is never full. To the place the streams come from, they return again. King Solomon by 931 B.C. Early reference to the water cycle.

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**From:** Hurd, Kathy  
**Sent:** Wednesday, June 21, 2017 9:00 AM  
**To:** Mancusi-Ungaro, Philip <Mancusi-Ungaro.Philip@epa.gov>; Powell, Duncan <Powell.Duncan@epa.gov>  
**Cc:** McGill, Thomas <McGill.Thomas@epa.gov>  
**Subject:** RE: Florida's Assumption of CWA Section 404 Dredge and Fill Program

Okay, I don't like the sound of where Phil will be all day, today!

But regarding FL assumption, do you all want me on the call today? I see me mentioned in the agenda but did not get an invite. Is this an internal meeting only or is it also with representatives from FL?

# Ex. 5 Deliberative Process (DP)

- Kathy

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**From:** Mancusi-Ungaro, Philip  
**Sent:** Wednesday, June 21, 2017 8:42 AM  
**To:** Powell, Duncan <[Powell.Duncan@epa.gov](mailto:Powell.Duncan@epa.gov)>  
**Cc:** Mancusi-Ungaro, Philip <[Mancusi-Ungaro.Philip@epa.gov](mailto:Mancusi-Ungaro.Philip@epa.gov)>; Hurlid, Kathy <[Hurlid.Kathy@epa.gov](mailto:Hurlid.Kathy@epa.gov)>  
**Subject:** RE: Florida's Assumption of CWA Section 404 Dredge and Fill Program

IN 1993, Florida had a very robust 404 equivalent program. So they were well positioned to assume the 404 program. They went through the entire process, including putting together the regs, AG statements etc, all the requirements spelled out in the 404 state program regulations. We had reviewed the package and were ready to start the formal review. The COE (John Hall) was actively involved and supported this effort. At the same time, FDEP was taking over the 402 program.

Sometime in 1993 or 94, the state legislature change the definition of waters of the state by changing the plant list such that many hydric pine flatwood systems were no longer JD. This was pushed by the developers. As a result, we told the state that their program was less inclusive as their definition of Waters of the state was not more limited. They would not change it so the program never was assumed.

This change also almost derailed the 402 assumption. To address that, we had the state AG issue a letter indicating that for 402 purposes they would use the federal definition. That allowed the assumption to go forward. We suggested they do that for 404, but the state did not want to.

I know we found the old files and shared them with HQ back when NJ was adopting 404.

As to current status, there is not much to tell. The state is interested, and are starting to discuss it but have not put a team together to work on this.

Phil

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**From:** Powell, Duncan  
**Sent:** Tuesday, June 13, 2017 12:44 PM  
**To:** Mancusi-Ungaro, Philip <[Mancusi-Ungaro.Philip@epa.gov](mailto:Mancusi-Ungaro.Philip@epa.gov)>  
**Subject:** RE: Florida's Assumption of CWA Section 404 Dredge and Fill Program

If you could give me some talking points I could cover your conversation with Drew Bartlett, FDEP and the Florida's 1990s attempt to assume the program.

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**From:** Mancusi-Ungaro, Philip  
**Sent:** Tuesday, June 13, 2017 12:41 PM  
**To:** Powell, Duncan <[Powell.Duncan@epa.gov](mailto:Powell.Duncan@epa.gov)>  
**Subject:** RE: Florida's Assumption of CWA Section 404 Dredge and Fill Program

Duncan, I will be in FERS retirement training all day.

Phil

-----Original Appointment-----

**From:** Powell, Duncan

**Sent:** Tuesday, June 13, 2017 12:38 PM

**To:** Woods, Diana; McGill, Thomas; Miedema, Ron; Harper, Cecelia; Martin, Molly; Mancusi-Ungaro, Philip; Hicks, Matt; Stopper, Nathan; Able, Tony

**Subject:** Florida's Assumption of CWA Section 404 Dredge and Fill Program

**When:** Wednesday, June 21, 2017 10:00 AM-11:00 AM (UTC-05:00) Eastern Time (US & Canada).

**Where:** R4-15T08-Water-Branch-Conf-Rm-15H-ATL

Call In # Ex. 6 Personal Privacy (PP)

Code: Ex. 6 Personal Privacy (PP)

#### Agenda

Attendance	Duncan
Approval of Agenda	Duncan
Existing Florida Intensions	Tom & Phil
Historical Effort	Phil
Kathy Hurlld, HQ Conversation	Tom
Review 404(g) & (h)	Duncan
WSRS Potential Involvement	Tony

Duncan's Desired Take-Away: State of Florida has thought about assuming the CWA Section 404 dredge & fill permit program. They are far (years) from putting together a package to submit to EPA. Historical state assumptions are primarily assessed by the attorneys to determine if the State meets the eight qualifications in 404(h).